

BEFORE THE WYOMING PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF)
ROCKY MOUNTAIN POWER FOR)
AUTHORITY TO IMPLEMENT AN ENERGY)
COST ADJUSTMENT MECHANISM)

Docket No. 20000-368-EA-10
(Record No. 12477)

APPEARANCES

For the Applicant, Rocky Mountain Power (RMP or the Company):

PAUL J. HICKEY & O'KELLEY H. PEARSON, Hickey & Evans, LLP, Cheyenne, Wyoming; and YVONNE R. HOGLE, Senior Counsel, Rocky Mountain Power, Salt Lake City, Utah.

For Intervenor Office of Consumer Advocate (OCA):

IVAN H. WILLIAMS, Senior Counsel, Cheyenne, Wyoming.

For Intervenor Wyoming Industrial Energy Consumers (WIEC):

ROBERT M. POMEROY, JR., and THORVALD A. NELSON, Holland & Hart LLP, Greenwood Village, Colorado.

HEARD BEFORE

Chairman ALAN B. MINIER
Deputy Chairman STEVE OXLEY
Commissioner KATHLEEN A. LEWIS

STEVE MINK, Assistant Secretary,
Presiding pursuant to a *Special Order* of the Commission

MEMORANDUM OPINION, FINDINGS AND ORDER
(Issued February 4, 2011)

This matter is before the Wyoming Public Service Commission (Commission) upon the application of RMP for authority to implement an Energy Cost Adjustment Mechanism (ECAM) and the interventions of the OCA and WIEC. The Commission, having reviewed the application and attached exhibits, the evidence of record, its files concerning RMP, and applicable Wyoming utility law, and being otherwise fully advised in the premises, FINDS AND CONCLUDES:

Findings of Fact: Parties and Procedure

1. On April 5, 2010, RMP submitted an application, together with exhibits and revised tariff sheets, requesting authority to implement an ECAM to replace the existing Power Cost Adjustment Mechanism (PCAM) which sunset on November 30, 2010. The final PCAM rate effective period begins April 1, 2011, and ends March 31, 2012. RMP stated that the replacement for the PCAM, as opposed to elimination without replacement, is critical if it is to

have a reasonable opportunity to recover prudently incurred net power costs directly related to serving Wyoming customers.

2. The proposed ECAM would allow RMP to account for and collect or credit the differences between actual net power costs and a base level of net power costs established in either a general rate case or an ECAM case. RMP stated that it would compare the actual system net power costs to the base net power costs in rates on a monthly basis, and defer the differences in the ECAM balancing account.

3. RMP proposed to modify the dates used for the current PCAM to simplify ECAM preparation and review. Thus, it proposed to file an annual ECAM application on or before March 15 of each year, the same to be effective the following June 1. RMP also proposed that the ECAM be computed on a per-unit (dollars/MWh) basis, stating this would simplify the calculations and eliminate the complex allocation mechanism in the current PCAM. RMP stated that a per-unit calculation also accounted for fluctuations in volume to account for actual experience. In addition, RMP proposed the monthly interest on the net balance in the ECAM account be symmetrical as with the current PCAM. RMP proposed to include sulfur dioxide (SO₂) and renewable energy credit (REC) sales revenues in the ECAM to ensure the customer and RMP are fairly treated with respect to revenues from these sales. RMP also proposed that the ECAM not continue the dead band or the three sharing bands from the PCAM, and instead proposed that the ECAM include a single 95%/5% sharing band. Finally, RMP proposed to change the historical test period for consideration of deferred net power costs in the first ECAM to include deferred net power costs from December 1, 2010, through December 31, 2011.

4. On April 5, 2010, the Commission issued its *Suspension Order* suspending the proposed rates for investigation and further action for the initial six-month period provided in W.S. § 37-3-106(c) which commences after the 30-day notice term provided in subsection (b) thereof. On that day, RMP filed a Petition for Confidential Treatment and Protective Order (*Petition*).

5. On April 7, 2010, the Commission issued a *Notice of Application* with a protest deadline date of May 7, 2010, which was published once per week for two consecutive weeks in the *Glenrock Independent*, the *Thermopolis Independent Record*, the *Casper Star-Tribune*, the *Riverton Ranger*, the *Northern Wyoming Daily News* in Worland, the *Daily Rocket-Miner* in Rock Springs, the *Pinedale Roundup*, the *Uinta County Herald* in Evanston, the *Cody Enterprise*, the *Buffalo Bulletin*, the *Douglas Budget*, the *Lovell Chronicle*, the *Green River Star*, the *Lander Journal*, and the *Daily Boomerang* in Laramie. A public service announcement with regard to the application was broadcast on radio five times per week for two consecutive weeks on *KTWO* in Casper, *KLDI* in Laramie, *KTRZ* in Riverton, *KRKK* in Rock Springs, *KKTY* in Douglas, *KOVE* in Lander, *KBBS* in Buffalo, *KEVA* in Evanston, *KTHE* in Thermopolis, *KWOR-AM* in Worland, *KPIN* in Pinedale, *KMER* in Kemmerer, and *KODI* in Cody.

6. On April 8, 2010, OCA filed its *Notice of Intervention*. OCA thereupon became a party to this proceeding for all purposes. On this date, Paul Hickey of Hickey and Evans, LLP filed an *Entry of Appearance* for RMP.

7. Pursuant to open meeting action taken on April 15, 2010, the Commission issued a *Protective Order* on April 16, 2010.

8. On April 27, 2010, WIEC filed its *Petition for Leave to Intervene* and its *Motion for Admission Pro Hac Vice of Robert M. Pomeroy, Jr., and Thorvald A. Nelson (Motion)*. The Commission issued an *Order* granting the *Motion* on May 24, 2010, and *Order Authorizing Intervention* granting WIEC's petition to intervene, whereupon it became a party for all purposes to this proceeding.

9. On May 24, 2010, the Commission issued a *Notice Setting Scheduling Conference*, setting a scheduling conference for May 27, 2010, at the Commission's offices.

10. WIEC filed the following *Nondisclosure Agreements*: Thorvald A. Nelson, Magdalena Ackenhause, Michael Gorman, Randall Falkenberg and Lauren Falkenberg (June 11, 2010); Mark Widmer (June 16, 2010); and Neal Townsend, Kevin Higgins, Oliwia Smith, Kelly Francone and Robert M. Pomeroy (July 6, 2010).

11. On May 27, 2010, the Commission held a scheduling conference and issued its *Scheduling Conference Order* on July 30, 2010, which set the following procedural schedule agreed upon by the Parties at the scheduling conference:

All parties to complete discovery on RMP's pre-filed direct testimony and application (all responses due within 10 business days)	August 27, 2010
All Intervenors to pre-file direct testimony (responses to discovery due within 7 business days)	September 10, 2010
RMP rebuttal testimony and Intervenor cross-answer testimony	October 15, 2010
All Parties to complete discovery on RMP's rebuttal testimony	October 29, 2010
Pre-hearing conference	November 5, 2010, 9:00 a.m.
Exhibit conference	November 8, 2010, 8:30 a.m.
Public Hearing	November 8-10, 2010, 9:00 a.m.

12. On September 10, 2010, WIEC filed the direct testimony and exhibits of Kevin Higgins, Michael Gorman and Randall J. Falkenberg. The filing contained confidential information. On that date, OCA filed the prefiled direct testimony and exhibits of Denise Kay Parrish. On October 15, 2010, OCA filed Parrish's cross-answer testimony.

13. On October 18, 2010, RMP filed rebuttal testimony and exhibits of Gregory N. Duvall, Stefan A. Bird, Karl A. McDermott; and, Samuel C. Hadaway.

14. On October 22, 2010, the Commission issued a *Procedural Notice and Order Setting Hearing*, setting a public hearing to commence on November 8, 2010. The *Notice* was published once per week for two consecutive weeks in the *Glenrock Independent*, the *Thermopolis Independent Record*, the *Casper Star-Tribune*, the *Riverton Ranger*, the *Northern Wyoming Daily News* in Worland, the *Daily Rocket-Miner* in Rock Springs, the *Pinedale Roundup*, the *Uinta County Herald* in Evanston, the *Cody Enterprise*, the *Buffalo Bulletin*, the

Douglas Budget, the *Lovell Chronicle*, the *Green River Star*, the *Lander Journal*, and the *Daily Boomerang* in Laramie. A public service announcement with regard to the application was broadcast on radio five times per week for two consecutive weeks on *KTWO* in Casper, *KLDI* in Laramie, *KTRZ* in Riverton, *KRKK* in Rock Springs, *KKTY* in Douglas, *KOVE* in Lander, *KBBS* in Buffalo, *KEVA* in Evanston, *KTHE* in Thermopolis, *KWOR-AM* in Worland, *KPIN* in Pinedale, *KMER* in Kemmerer, and *KODI* in Cody.

15. On November 3, 2010, the Commission issued its *Suspension Order* suspending the proposed rates in this case for the final three month period allowed by W.S. § 37-3-106(c).

16. On November 4, 2010, O'Kelley H. Pearson filed an *Entry of Appearance* on behalf of RMP. On this date, the parties filed a *Stipulated Summary of Uncontroverted Facts*. RMP filed its [i] *Summary of Contentions*; [ii] *Schedule of Exhibits*; [iii] *Summary of Issues of Fact and Law for Determination by the Commission*; and [iv] *Notice of Filing Pre-Hearing Conference Submission Pursuant to the Commission's July 30, 2010, Scheduling Conference Order*.

17. On November 5, 2010, OCA filed its [i] *Updated Summary of Contentions*; [ii] *Summary of Remaining Issues of Fact and Law for Determination by the Commission*; and [iii] *Revised Schedule of Exhibits*. WIEC filed its [i] *Designation of Wyoming Industrial Energy Consumers Exhibits*; [ii] *Summary of Issues of Fact and Law*; [iii] *Summary of Contentions*, and [iv] *Corrected Designation of Wyoming Industrial Energy Consumers Exhibits*.

18. On November 8, 2010, and pursuant to W.S. §§ 37-2-102 and 16-3-112, the Commission issued its *Special Order Authorizing One Commissioner and/or Hearing Examiner to Conduct Public Hearing*.

19. Pursuant to the Commission's orders and due notice, the public hearing in this matter was held on November 8-10, 2010, in the Commission's hearing room in Cheyenne. RMP, OCA and WIEC appeared and participated fully in the hearing. RMP presented its case through witnesses Gregory N. Duvall, Bruce N. Williams, Karl A. McDermott, Samuel C. Hadaway, and Stefan A. Bird. The OCA presented its case through its witness Denise Kay Parrish. WIEC presented its case through its witnesses Michael Gorman, Kevin C. Higgins and Randall J. Falkenberg. During the hearing, the Commission took judicial notice of its *Order Approving Stipulation* issued on March 24, 2006, in Docket No. 20000-230-ER-05 (Sub 230). (Transcript of public hearing proceedings, hereinafter, Tr., Vol. II, p. 295.) At the conclusion of the public hearing, the parties waived closing arguments and agreed to file briefs by December 20, 2010. The Commission thereupon closed the record.

20. On December 21, 2010, RMP, OCA and WIEC filed their respective *Post-Hearing Briefs*.

21. Pursuant to W.S. § 16-4-403, the Commission held public deliberations on January 5, 2011, and directed the preparation of an order consistent with its determinations.

Findings of Fact: Party Positions

RMP

22. Gregory Duvall, Director of Long Range Planning and Net Power Costs for RMP, provided an overview of the proposed ECAM, terming the proposed ECAM a cost recovery mechanism, differentiating it from the current PCAM which he characterized as a safety net mechanism. (Tr., Vol. I, pp. 33, 156.) Duvall characterized the proposed ECAM as a means to mitigate forecasting risk. (Tr., Vol. I, pp. 133-134.) He stated the current PCAM was no longer adequate to capture prudently incurred net power costs and had resulted in the under-recovery of \$25 million in net power costs from Wyoming. He argued that, if the PCAM had been in effect in all six states, the total under-recovery would have been \$225 million on a company-wide basis. Duvall believed the under-recovery was driven by the dead band and sharing bands included in the current PCAM. (Tr., Vol. I, p. 34.) He noted the proposed ECAM does not include either a dead band or the three sharing bands found in the current PCAM. Rather, the proposed ECAM will include a single sharing 95%/5% sharing band, under which customers would pay or receive 95% of the difference between actual and base net power costs; and RMP would pay or receive 5% of the difference between actual and base net power costs. Duvall stated the proposed ECAM is based on an annual true-up of forecast net power costs to actual net power costs based on a 12 month year ending December 31 of each year, with a filing on March 15 each year and a rate effective date of the following June 1. The company proposed that the first ECAM include December 2010 in the balance because it would not be covered under the PCAM which expired on November 30, 2010. (Tr., Vol. I, pp. 33-35, 155.)

23. Duvall stated the proposed ECAM will include renewable energy credit (REC) and sulfur dioxide (SO₂) revenues in addition to net power costs along with the embedded cost differential (ECD) adjustment that is part of the current PCAM. He stated the ECAM balances would continue to be recovered and returned to customer through RMP's existing Schedule 95 tariff. Duvall did not recommend that the true-up mechanism be removed altogether, explaining his opinion that its removal was not a viable option since the \$25 million dollar under-recovery experienced under the current PCAM would persist. (Tr., Vol. I, pp. 33-35, 101-102, 114-115.)

24. Duvall also addressed market volatility and the historical fluctuations of electricity prices, stating that, from January 2005 through December 2009, prices ranged from zero to \$300 per megawatt hour (MWh). He also discussed the Company's acquisition of additional resources such as 2500 megawatts (MW) of natural gas generation and 1750 MW of wind generation to reduce its reliance on coal-fired generation from 60% to 30%. Duvall stated market volatility and RMP's acquisition of additional resources have caused net power costs to become more volatile and unpredictable. Duvall explained that production cost models, such as RMP's GRID model, are not able to capture these volatilities since they are based on a static view of the world. Duvall did not believe RMP could eliminate risk and volatility using hedging instruments. He stated the Company is able to hedge certain future natural gas requirements in wholesale transactions (the context of the GRID model); but significant variations in the Company's net open position occur through the actual period as a result of substantial uncontrollable and unpredictable volatility in loads and resources that occur simultaneously with substantial uncontrollable and unpredictable volatility in prices of natural gas and electricity.

Duvall stated RMP does not believe that fixing the GRID model could address “the realities of the actual world. The only reasonable solution is the company’s proposed ECAM.” (Tr., Vol. I, pp. 35-36.)

25. Duvall discussed the stochastic analysis he performed to quantify the possible effect of model-simulated actual conditions which differ from the assumed static conditions characteristic of the GRID model. In the study, Duvall used the Company’s Planning and Risk model to derive the portfolio stochastic cost utilizing 100 Monte Carlo simulation outcomes for the study year, 2012. In one model run, the loads, forced outages and hydro generation were not subject to the 100 Monte Carlo simulations, producing a model run that simulated the case where the Company fully and perfectly hedges its risk associated with these variables. In another model run, these variables were subject to the random draws of the Monte Carlo simulation. (RMP Exhibit 1, pp. 16-17) The comparison between the two model runs indicates the volatility of loads, hydro and forced outages increased the portfolio stochastic costs by \$80 million per year. He noted his analysis did not account for the variability of wind which he claimed would add another six to ten dollars per MWh to power costs. (Tr., Vol. I, pp. 36-37.)

26. In rebuttal, Duvall discussed the proposals by WIEC witness Falkenberg and OCA witness Parrish. He stated both proposals ignore the historical under-recovery of net power costs; and both proposals increase the under-recovery of net power costs. Duvall stated that Falkenberg’s proposal to double the dead band and sharing bands would increase the under-recovery in the historical PCAM from \$25 million to \$43 million on a Wyoming-specific basis and by \$225 to \$339 million on a total company basis. He stated that Parrish’s proposal to eliminate the dead band and sharing bands and set net power costs at 90% of forecast or lower is unreasonable and does not address the historical under-recovery of net power costs. Regarding Falkenberg’s claim that the under-recovery of net power costs could have been reduced if RMP had set the net power costs in rates at higher levels, Duvall said that RMP cannot set its own rates. Regarding Falkenberg’s proposal that RMP should forecast net power costs for the rate effective periods, Duvall argued the suggestion was irrelevant and had never been advocated by WIEC in the past. Duvall noted that, while this method (the “Oregon method”) uses forecasting, it is still a static view of the future and fails to address the volatile and changing conditions the Company faces in serving customer loads. Duvall termed Falkenberg’s idea that RMP should replace its dollar per MWh proposal with an average of the system generation and system energy allocation factors was simply unreasonable. (Tr., Vol. I, pp. 37-38)

27. In summary, Duvall stated that the proposed ECAM is “a simple straightforward and transparent mechanism designed to fulfill the regulatory compact borne out of the obligation to serve, of providing reliable and low-cost service to customers in return for the company recovering its prudently incurred net power costs.” He recommended the Commission approve the application. (Tr., Vol. I, p. 38.)

28. WIEC questioned Duvall on the history of the PCAM and his understanding of Commission Rules 249 and 250. Duvall acknowledged these Rules allow utilities a dollar-for-dollar recovery of certain prudently incurred commodity and commodity-related costs; but Duvall believed the proposed ECAM falls under W.S. § 37-2-121 as innovative or nontraditional rate making. (Tr., Vol. I, p. 156.) He stated the PCAM was the result of the 2001 Western

Energy Crisis and was established as a safety net mechanism. (Tr., Vol. I, pp. 40-41.) He acknowledged the current PCAM was consistent with the settlement agreement between RMP, WIEC, OCA and the other parties in the Sub 230 case in which the Commission approved the PCAM pursuant to its authority under W.S. § 37-2-121 rather than Rules 249 and 250. (Tr., Vol. I, p. 42.) He stated that he did not know whether the costs proposed to be recovered under the ECAM, which are the same as the costs recovered under the current PCAM, are eligible for recovery under Commission Rules 249 and 250. His understanding was that, in Sub 230, PacifiCorp understood that the PCAM, as it agreed to in the settlement, would not provide a direct pass-through of costs. He noted that the PCAM involved a sharing of the risk of cost increases between PacifiCorp and its customers and was not intended as a mechanism to pass net power costs through to customers. (Tr., Vol. I, pp. 42-43.)

29. Responding to WIEC, Duvall agreed that RMP could file a rate case if it were concerned that it was not earning its authorized rate of return. He acknowledged that RMP has filed numerous rate cases since the current PCAM went into effect and that each was settled between itself, WIEC and the OCA whereby the Company agreed to a smaller rate increase than it originally requested. He agreed that each of these settlements included agreements to levels of base net power costs in rates which were lower than the levels RMP initially proposed. He acknowledged the Company supported each settlement as serving the public interest, and if the Commission had accepted RMP's filed levels of base net power costs rather than the amounts settled upon, it would have experienced higher revenues in the 2006-2009 period. Duvall explained that RMP's calculation of the net power cost under-recoveries during 2006-2009 differed from WIEC's calculation because witness Falkenberg used six more months of data than RMP. (Falkenberg Testimony, p. 17, Table 1; and Tr., Vol. I, pp. 45-48, 50-52.)

30. Duvall agreed that hedging can decrease the price volatility of RMP's natural gas purchases for electric generation for a given point in time and a given open position. Duvall stated the company hedges natural gas supplies for its electric operations in addition to owning and operating coal mines to maintain some control over the effects of coal price variations. He agreed that long-term contracts mitigate price risk when contrasted to reliance on spot market purchases. (Tr., Vol. I, pp. 52-55.) Duvall agreed that the Company's capacity derived from hydroelectric generation has decreased as a percentage of its total portfolio. He stated that on a MWh basis, hydroelectric capacity has decreased because of some expiring contracts, although company-owned hydro had remained fairly constant. (Tr., Vol. I, p. 55.) Duvall stated that the portion of RMP's total capacity derived from wind generation resources, which have no associated fuel cost, has increased over time and is expected to continue to increase. He further agreed that natural gas fired generation capacity has increased over time, noting that replacing coal plants with natural gas plants will increase the impact of natural gas costs in the ECAM. (Tr., Vol. I, pp. 56, 88-89.) Duvall acknowledged that proper inspection and maintenance of the Company's system might reduce the number of forced outages and the associated price volatility, but the Company cannot control the timing of those outages. (Tr., Vol. I, p. 57.)

31. Duvall noted that, after filing the instant application, RMP filed an application in Docket No. 20000-381-EA-10 (Sub 381) for approval of revisions to the interjurisdictional allocation methodology. Duvall stated that RMP intends to use the approved allocation methodology from Sub 381 for purposes of the ECAM, assuming that the Commission approves

the Sub 381 application and some form of an ECAM, including base net power costs. He stated it would not make sense to apply the average of the system energy (SE) and the system generation (SG) factors, as proposed by WIEC witness Falkenberg, since most of the net power cost is allocated on the system energy factor. (Tr., Vol. I, pp. 58-60.) When asked if RMP objected to using the allocation method approved in Sub 381 for the purposes of calculating both base net power costs and actual net power costs for the purposes of the ECAM, Duvall responded:

I think the point of the company's dollar per megawatt-hour approach is it's very simple and, I believe comes out with – I think if you could try to figure out how to allocate your base net power costs and your actual net power costs using the SE and SG factors and then too those on a dollar per megawatt-hour basis to do the same sort of calculation that we've done in our ECAM, I can't imagine that it would be significantly different. (Tr., Vol., I, p. 60.)

Duvall later clarified that the Company's proposal is not a request to abandon the current interjurisdictional allocation methodology. He stated the Company uses the current methodology for setting base net power costs and that the dollar per megawatt-hour method is only for the incremental piece in the ECAM. (Rocky Mountain Power Exhibit 11; Tr., Vol. I, pp. 149-152.)

32. Duvall stated that allocating base net power costs using one methodology and thereafter employing a different methodology to allocate actual net power costs for the true-up would make the calculation simpler. He stated that people have complained that the current method is too complex; and the proposed methodology is intended to simplify a very complex methodology. He agreed that theoretically, if different methods were used to allocate base net power costs and actual net power costs, the resulting answers could be different. (Tr., Vol. I, pp. 60- 63.)

And so if your dollar per megawatt-hour of your base and your dollar per megawatt-hour of your actual are different, that's what we're measuring in this calculation. So we're not actually allocating the actuals. (Tr., Vol. I, p. 64.)

33. Regarding the impact to the embedded cost differential, should the Sub 381 application be approved, Duvall testified that the 2010 Revised Protocol eliminates qualifying facilities from the calculation. (Tr., Vol. I, p 69.) Duvall testified that the Company proposes to forecast net power costs to establish the level of base net power costs for use in the ECAM. When asked what time period would the Company propose its forecast to begin and end, Duvall stated the Company proposes that it be allowed flexibility to file whatever forecast it believed was appropriate in any application it files before this Commission to set base net power costs. Duvall stated that he would not object to WIEC witness Falkenberg's suggestion to use a forecast that starts the first day of the rate-effective period. Duvall stated he calls this forecast method the Oregon method. (Tr., Vol. I, pp. 69-71)

34. Duvall testified that, in the past, RMP has relied on the GRID model to forecast proposed rates in Wyoming. He explained RMP's position in this case is that GRID is a static model that does not take into account all the volatility that can occur after the model's static view

is in place. He stated that RMP may address some modeling issues, and, if rates are still set based on models, RMP will probably try to address the static versus real world issue. He stated that RMP is examining other models but believes no model can take into account the changes in load, hydro, wind and other variables. Duvall believed that stochastic models best account for variability because they include random variability in hydro, loads and the timing of thermal unit forced outages. He agreed that WIEC and OCA have accepted the use of forecast test periods to set base net power costs. (Tr., Vol. I, pp. 70-73, 89-90, 103-105.) Duvall agreed that, under the proposals of RMP, WIEC and OCA, whether net power costs are increasing or decreasing in absolute terms matters much less than whether or not net power costs turn out to be higher or lower than the forecasted level. (Tr., Vol. I, pp. 73-80.) Duvall characterized the ECAM as a means to mitigate forecast risk; i.e., the risk the Company claims the GRID model introduces by failing to adequately forecast increases in costs. Duvall asserted that costs have been consistently underforecasted, noting that RMP has recently experienced shortfalls in the range of 3-8% annually. (Tr., Vol. I, p. 134, 152-155.)

35. Duvall discussed WIEC's claim that the Energy Gateway transmission project Gateway Project (Gateway) will dampen net power cost volatility. He stated that Gateway will improve transmission reliability on the PacifiCorp system by allowing RMP to more efficiently meet the load and resource needs on its system. This means that RMP would have a wider range of options for efficiently dispatching resources to meet load. Duvall stated enhancing system transfer capability allows the Company to address volatility more efficiently. (Tr., Vol. I, pp. 80-82, 134-136.)

36. Duvall discussed other PacifiCorp jurisdictions that have mechanisms similar to the proposed ECAM and how the various mechanisms differ. RMP has a proposed ECAM in Utah that is fairly similar to the Wyoming proposal. He stated the mechanism now in place in Idaho is similar to Wyoming's and has a 90/10 sharing band with no dead band. (RMP Exhibit 9.) A California mechanism has no sharing or dead bands; and no ECAMs are in place in Oregon or Washington. (Tr., Vol. I, pp. 85-86.) Regarding sales for resale, he was not aware of PacifiCorp ECAMs that dealt with them. Duvall stated the Company purchases power as necessary to meet its requirements and does not separate out sales for resale. (Tr., Vol. I, p. 85.) When asked why wheeling revenues were not included in RMP's Account No. 456, Other Electric Revenues, Duvall stated wheeling had traditionally not been included in net power costs. He stated wheeling expense and wheeling revenues have different purposes. Duvall explained that wheeling expenses are incurred to move power to serve RMP's customer loads and wheeling revenues are received from other parties using RMP's transmission to serve their loads. He stated that, if you look at net power costs as costs needed to serve the Company's load, wheeling expenses, and not wheeling revenues, would be included in the Account 456. He stated credits for wheeling revenue are fixed in the rates and are not included in the PCAM or proposed ECAM. He stated, however, that RMP would not oppose the inclusion of wheeling revenues in the Wyoming ECAM. (Tr., Vol. I, pp. 85-86, 100-101.)

37. Duvall stated the availability of gas storage is limited and has not been directly addressed in the Company's IRP. (Tr., Vol. I, p. 91.) He noted that the IRP balances the increased volatility of net power costs caused by the increase in wind production and flexible natural gas generation resources. (Tr., Vol. I, pp. 91-92.) Duvall described the limited control

RMP has over its net power costs, noting they are volatile, difficult to predict and many elements are not subject to its control. (Tr., Vol. I, p. 93.) Duvall was of the opinion that tightening up dead bands rather than improving the Company's forecasts would be a more viable option given [i] how difficult it is to forecast net power costs and [ii] the differences between models and what actually occurs. Duvall stated eliminating the dead band and shrinking the sharing band would allow the recovery of actual net power costs to be more in line with forecasts. He stated that, while forecasts within models can be improved, the real world operations of the Company cannot be simulated. Duvall stated the Company looks for ways to improve the forecasts, commenting that "... if you forecast for the in-rates period, you get a different answer than if you forecast for something that occurs prior to the in-rates period." (Tr. Vol. I, pp. 93-95, quote at 95.)

38. Duvall stated RMP would prefer to have a full true-up with no sharing bands. The proposed ECAM eliminates the dead band altogether but proposes a single sharing band with 95% of the prudently incurred costs to be borne by ratepayers, and the balance to be borne by the Company. Duvall acknowledged that the Company offered no derivation for its proposed 95/5 sharing percentages. (Tr., Vol. I, p. 95.) Duvall stated the Company reviewed its mechanisms in other states to determine what it would propose for the sharing band in Wyoming. He stated the 90/10 sharing band utilized in Idaho was the result of a negotiated settlement. He believed the Idaho Commission had since changed that to a 95/5 sharing band. (Tr., Vol. I, pp. 95-96.)

39. Duvall, acknowledged that the ECAM Stipulation in Idaho does not include RECs, but it included RECs in its Idaho general rate case. (Tr., Vol. I, pp. 110-113.) According to Duvall, the Idaho ECAM includes wheeling expenses but not revenues, stating wheeling expenses are components of net power costs. RMP offered the Idaho Commission's March 31, 2010, Order in which it accepted an ECAM that included wheeling expenses. (Tr., Vol. I, pp. 148-149; Rocky Mountain Power Exhibit 12.) Duvall acknowledged there is not a lot of volatility in the unit cost of wheeling, noting that it obtains wheeling primarily from Bonneville Power Administration and Idaho Power Company. (Tr., Vol. I, pp. 123-125.)

40. Duvall said there would be the need for a true-up if the Commission did not approve the Company's dollar per MWh methodology, noting that the current mechanism includes a true-up provision. (Tr., Vol. I, pp. 96-97, 120.) When asked why the Company was proposing a change in methodology without calculating the impact, Duvall stated the proposed methodology deals with the difference between actual and forecast net power costs. He stated RMP was not proposing to change the allocation of the base net power costs. (Tr., Vol. I, pp. 97-98.) When asked what effect removing the embedded cost differential would have on rates in Wyoming, Duvall said the rate impact would be on a going forward basis and would depend on the components of the embedded cost differential. (Tr., Vol. I, pp. 98-99.) Duvall thought WIEC witness Falkenberg's suggestion to include a true-up of PCAM revenues and recoveries in the proposed ECAM was reasonable. (Tr., Vol. I, pp. 99-100, 162.)

41. Duvall said RMP intends to file rate cases annually through 2014 and RMP would also file separate ECAM applications annually rather than including them in rate cases as there were no plans to file them together. (Tr., Vol. I, pp. 113-114.) Duvall believed general rate cases are unsatisfactory vehicles for the full recovery of net power costs stating that it would be

nearly impossible to establish a "normalized" level of net power costs in a rate case that would accurately reflect actual future events given their volatility. He indicated that the component parts of net power costs have not changed over time. (Duvall Direct Testimony, p. 10; Tr., Vol. I, pp. 117-119.)

42. Duvall said it was impossible for RMP to effectively hedge its actual load and resource balance one year in advance. (Duvall Direct Testimony, pp 14-17; Tr., Vol. I, pp. 121-122.) He testified that on-system wholesale sales revenues are not included in RMP's Account 447, Sales for Resale. Because on-system wholesale sales are under the FERC's jurisdiction, the Company removed the allocation factor calculation. On-system wholesale sales revenues "... are not passed back through retail rates because they're their own FERC jurisdiction. So they get a full allocation of all of the embedded costs." According to Duvall, retail ratepayers benefit from wholesale sales on the system through lower allocation factors. Regarding off-system wholesale sales, Duvall stated that they are fully included in net power costs as revenue credits. He stated the contracts are under the FERC jurisdiction but the sales are not. (Tr., Vol. I, p. 125-130.)

43. Duvall argued that RMP should recover 100% of its prudently incurred costs from ratepayers. (Tr., Vol. I, p. 144.) However, he acknowledged customers have no control over net power costs or how the Company manages them. He stated customers generally do have control over what load they place on the system. (Tr., Vol. I, p. 145.)

44. Duvall explained how REC revenues were accounted for in Docket No. 20000-352-ER-09 (Sub 352), RMP's previous rate case, and proposed those revenues be shared 95/5 in the proposed ECAM. (Tr., Vol. I, pp. 138-139.) He explained that this proposed sharing treatment of REC revenues would give RMP an incentive to maximize REC revenues. No incentive existed in the Sub 352 rate case because REC revenues were applied as an offset against the revenue requirement. (Tr., Vol. I, pp. 146-147.)

45. Bruce Williams, PacifiCorp's Vice President and Treasurer, supported the application and testified about transitioning from the sunsetting of the current PCAM to the proposed ECAM. (RMP Exhibit 3.) He discussed how the loss of a fuel and purchased power adjustment mechanism increases the risks to earnings and cash flow caused by the volatility inherent in net power costs. He stated this volatility can adversely impact the Company's access to capital and liquidity to the detriment of the Company and its customers. Williams discussed RMP's capital needs, stating it was in the midst of a major building cycle to address increasing load growth in Wyoming. According to Williams, RMP's capital budget exceeds cash from operations. Williams acknowledged, however, that the Company has experienced positive returns from its Wyoming operations; and RMP's total revenues from Wyoming each year exceed its total expenses assigned to Wyoming each year. (Tr., Vol. pp. 185-186.)

46. Williams stated the Company will need continued access to additional capital in order to fund its capital program. Therefore, credit ratings have been, and will continue to be, important to its ability to access capital markets on reasonable terms. Williams discussed the factors ratings agencies such as Standard and Poor's (S&P) use when determining a utility's credit rating. In the regulatory environment, Williams noted, rating agencies frequently look at

the absence or existence of a purchased power and fuel adjustment mechanism such as the proposed ECAM when determining a credit rating. Williams noted that an S&P credit report viewed Wyoming's PCAM (which included the sharing bands and dead bands) as a positive influence on the Company's credit while listing the absence of fuel and purchased power adjustment mechanisms for the Company in Utah, Washington and Idaho as material weaknesses under the major rating factors. Williams agreed that while the structure of the proposed mechanism decreases the risk to the Company and is viewed favorably by credit rating agencies, it may not increase the Company's credit rating. Williams stated that he believed the ECAM would help RMP's credit metrics, especially cash flow metrics, thereby allowing for a better recovery of those costs which would improve the Company's ratios. (Tr., Vol. I, pp. 180-182, 189-190, 200.) Williams discussed that rating agencies factor into credit ratings the institution of mechanisms such as the proposed PCAM as regulatory support. He stated Moody's reviews four principal criteria: [i] regulatory environment; [ii] ability to recover costs and expenses; [iii] diversification; and [iv] financial strength and liquidity. (Tr., Vol. I, 191-192.)

47. Williams stated the benefits the proposed ECAM would provide include such things as [i] moderating the amount of imputed debt and interest expense adjustments related to power purchase agreements S&P makes to the Company's published financial results when determining adjusted credit metrics, and [ii] reducing the amount of back-up credit required to ensure the Company can continue to fund operations in the event of constrained liquidity conditions. (Tr., Vol. I, pp. 182-184, 186-189.)

48. Karl A. McDermott, PhD, Ameren Distinguished Professor of Business and Government at the University of Illinois, Springfield, and special consultant to National Economic Research Associates, Inc., testified on ECAM-like rate making mechanisms and RMP's proposed ECAM, in part through his prefiled direct and rebuttal testimony. (RMP Exhibits 4, 5.) McDermott presented data confirming the volatility of net power costs relative to non-net power costs. He discussed the reasons net power costs are more volatile than non-net power costs stating the vast majority of net power costs are incurred to ensure the system balance is maintained in order to preserve the safety, adequacy and reliability of power supplied to customers. McDermott stated that net power costs vary by two to two and a half times more than non-net power costs. McDermott stated that dead and sharing bands were not necessary "to discipline the company" because the proposed ECAM provides a balancing mechanism that flows costs through to customers, allows for a prudence review, and provides the possibility of refund. He stated that "[t]he vast majority of other state commissions have recognized this as well and rely primarily on the prudence review process to provide incentives to companies to control their costs." (Tr., Vol. I, pp. 214-216, 226-236, quote at p. 216.)

49. McDermott encouraged the Commission to follow other states' example and eliminate the dead bands and sharing band. However, for RMP, McDermott conceded that the Commission could properly consider the commercial disadvantage to Wyoming industry that might result because of RMP's high industrial load (70% of RMP's Wyoming load is industrial). Approximately \$61.8 million has been paid out to the Company from customers under the current PCAM, of which, 70% was paid by industrial customers. (Tr., Vol. I, pp. 281-283.) According to McDermott, the Company, as well as its customers, benefit from removing the sharing band and dead bands in terms of preserving the cash flow the Company needs to meet

the varying costs of effectively balancing the system. McDermott stated that dead bands and sharing bands disallow a cost without the benefit of review which results in Wall Street putting companies under credit watches or other lists and may adversely impact the Company's ability to obtain capital at a reasonable cost. McDermott concluded his testimony stating that simplifying the ECAM design with a 95/5 sharing band would serve the public interest. He reemphasized his support for prudency reviews as powerful incentives for the Company to control net power costs. (Tr., Vol. pp. 216-218, 236-238, 241-249.)

50. Dr. Samuel C. Hadaway, a principal in FINANCO, Inc., of Austin, Texas, testified on behalf of RMP and in support of his prefiled rebuttal testimony (RMP Exhibit 7) in which he responded to WIEC witness Falkenberg's opinion that variations in rate of return estimates are indicative of "normal course of business" operating risks for electric utilities like RMP. (WIEC Exhibit No. 203, pp. 27-28.) Hadaway stated that Falkenberg tried to use data from Hadaway's rate-of-return estimation models to support a 100 basis point dead band in WIEC's proposed ECAM. Hadaway said this approach wrongly attempts to connect two totally unrelated issues. Hadaway stated variations in the results from the DCF or risk premium models have nothing to do with a utility's operating profits or fluctuations in utility's operating portfolios in the normal course of business. Hadaway argued that variations in the results of rate of return estimation models have nothing to do with a utility's earnings or cash flow. He stated that Falkenberg's 100 basis point dead band is four times larger than the 25 basis point range on either side of the mean (9.6% to 11.6%) he would normally recommend. (Tr., Vol. III, pp. 528-529.)

51. Stefan A. Bird, PacifiCorp Energy's Senior Vice President, Commercial and Trading, supported his rebuttal testimony (RMP Exhibit 6) and testified on other issues. He explained how the Commercial and Trading Group performs its job of balancing the Company's constantly changing loads and resources. He stated that a sharing or dead band would have no impact on the Commercial and Trading Group and their daily decisions on which generating units to ramp up, whether to buy or sell power, and what transmission needs to be scheduled. (Tr., Vol. III, pp. 542-546.)

52. Bird's rebuttal testimony addressed issues raised by the OCA and WIEC regarding hedging, forecast volume, dead and sharing bands and possible cost and revenue items where incentives could exist if appropriately designed. Bird stated that, for the ECAM to be just and reasonable, the mechanism must [i] reasonably allow the Company to recover all of the costs prudently incurred in serving customers, and [ii] provide the Company with a reasonable opportunity to earn its authorized ROE. Bird stated:

To go beyond the Company's proposed 95/5 sharing band to a greater sharing band, then you must believe that the Company, first of all, has a base forecast with a 50/50 chance of being higher or lower and, secondly, that the Company has a reasonable ability to offset the uncontrollable factor with something else that's within its control; otherwise, your decision would be imposing a disallowance that is, in effect, simply a reduction of the authorized ROE.

Bird contended that WIEC's and OCA's proposals are "... well outside that reasonable range and well outside the mainstream." (Tr., Vol. III, pp. 547-548.)

53. Bird commented on the industry changes which caused the Company to seek the proposed ECAM. He explained that the volatility of the market and resources is greater today than ten or twenty years ago. Furthermore, RMP's resource portfolio has changed from predominantly depending on stable lower cost coal-fired resources to one characterized by a more diverse range of generation resources that includes, for example, wind generation which is very volatile. Bird discussed the influence on market price and cost volatility associated with 1500 MW of natural gas generation capacity and 1500 MW of owned and contracted wind generation capacity added over the past three years. According to Bird, the approach of setting rates on a forecast model is no longer viable. He also asserted that, aside from wind integration costs primarily concerning intra-hour changes, the other pertinent categories of net power costs are now so volatile that they cannot be captured by the Company's GRID production cost dispatch model. (Tr., Vol. III, pp. 549-552, 554.) Bird argued that "[t]he goal of the company's ECAM proposal is simply to restore that original intent in setting base rates to true up rates so that the rates reflect prudently incurred costs, no more and no less." (Tr., Vol. III, p. 549.) He contended that the current PCAM and the proposals by OCA and WIEC could create a circumstance where the Company would recover more than its prudently incurred costs. Bird argued that the Company's proposed ECAM further reduces risk to customers because it properly incents RMP to invest in resources that will produce the lowest long-term costs to customers on a risk-adjusted basis by creating the expectation that RMP has a legitimate and reasonable opportunity to earn its authorized ROE, thereby recovering the cost of its investments. (Tr., Vol. III, p. 552.) Bird concluded his testimony saying, "In summary, this mechanism is extremely important to the Company and to the customers we serve in Wyoming, in particularly in light of the current and dramatic build cycle that we are in." (Tr., Vol. III, p. 554.)

54. Bird agreed that the mechanisms proposed by OCA and WIEC would allow the Company the opportunity to achieve its authorized ROE. He acknowledged that RMP's own generation resources, the long-term and in-house nature of portions of its fuel supply, and its aggressive hedging practices all mitigate a significant amount of its exposure to net power costs volatility. He also agreed RMP has control over its resource acquisitions and hedging strategies, but he noted that RMP has this control only over its exposure to risk from price volatility for a given forecast. He stated factors like wind and rain were inherently difficult to predict and therefore hedge against. Bird stated that, regarding dollar cost averaging over a 48-month period, hedging over a longer time period provides customers with stabilization and minimization of extreme volatility they would otherwise be exposed to. It also provides benefits through the ECAM by minimizing the amount of variance that would show up in the ECAM deferral balance. (Tr., Vol. III, pp. 556-558, 577-578, 590-591.) Bird acknowledged the Company has reserve margins on the generation side to deal with unexpected generator outages. Further, RMP's transmission system is designed to deal with unexpected outages to ensure the Company meets its obligations to provide service. Bird noted that there are nevertheless costs associated with forced outages. He conceded that: [i] without the Company's best efforts, net power costs would be higher; and [ii] customers rely on the Company to control its net power costs. Bird suggested that the issue in prudence reviews would be whether the Company had

managed the event in the best possible manner. Bird agreed that a prudency review “. . . is a sufficient mechanism to ferret out or to thoroughly examine and determine if power costs have been appropriately forecasted, established in the rate case and subsequently purchased.” According to Bird, a sharing band or a dead band provides no incentive for the Company to control its net power costs. He stated all they accomplish is a disallowance of the Company’s prudently incurred costs. (Tr., Vol. pp. 559-564, 573, 586-589, 592-565, 600, 605-606.)

WIEC

55. Kevin Higgins, a principal in the Energy Strategies consulting firm, testified for WIEC in general and in support of his prefiled direct testimony. (WIEC Exhibit 201.) He disagreed with RMP’s proposal to replace the existing PCAM with the proposed ECAM, and asked the Commission to reject it. In his opinion, the ECAM would seriously reduce the Company’s incentive to manage its fuel and purchased power costs as well as it would if it remained more responsible for the energy cost risk. (Tr., Vol. II, p. 299.) He disagreed with RMP’s assertion that a prudency review would incent RMP to ensure sound cost management practices, stating:

In my view, the threat of a finding of imprudence following an after-the-fact audit is not a good substitute for the company having skin in the game when it comes to managing its costs. A finding of imprudence essentially requires a determination that the company acted unreasonably in its power cost management.

In contrast, a risk sharing mechanism structured such that each and every action undertaken by the company affects its bottom line provides an incentive for the company to get the best possible result from every action. (Tr., Vol. II, pp. 299-300.)

According to Higgins, a well-crafted sharing mechanism would allow the Commission to harness the natural economic self-interest of the Company to incentivize the desired behavior through the mechanism in which risks and benefits are more properly balanced. (Tr., Vol. p. 300.)

56. Higgins strongly disagreed with RMP witness McDermott’s support for the proposed ECAM based on the contention that net power costs are volatile, unpredictable and largely beyond the Company’s control. Higgins testified that he believed McDermott overstated his claim because [i] McDermott’s analysis of volatility largely focuses on price movements in commodity markets in which the Company does not have significant price exposure; [ii] RMP’s exposure to power cost volatility is mitigated significantly by the composition of its generation resources, the long-term and in-house nature of much of RMP’s fuel supply, and its aggressive hedging practices, each of which Higgins found to be entirely overlooked or given little attention; [iii] McDermott’s claim of net power cost volatility failed to consider the role played by the Company’s relatively frequent rate case filings in Wyoming; and [iv] McDermott’s analysis of net power cost volatility is heavily skewed by his inclusion of the impacts of the California power crisis of 2000-2001 and the market manipulation associated with that period. Higgins stated that, when the distorting effects of the power crisis and associated market manipulation are removed from McDermott’s analysis, there is little difference between McDermott’s volatility metric for net power costs and non-net power costs. Higgins testified

that, while he agreed with RMP that net power costs are impacted by weather-related risk, forced outages and resource portfolio risk, he believed these risks fall within the purview of normal business risks faced by the Company and for which it is compensated through its return on equity (ROE). (Tr., Vol. pp. 300-302, 327-328.) With regard to prudency reviews, Higgins stated he did not believe a prudency review provided a very strong incentive. (Tr., Vol. II, pp. 326, 333-334.) Higgins believed WIEC's proposed PCAM provided a more balanced and reasonable approach to net power costs and was a better approach to the risk-sharing precepts in the Commission's order in Sub 230. (Tr., Vol. p. 302.)

57. Michael Gorman, Consultant and Managing Principal with Brubaker and Associates, Inc., testified on behalf of WIEC and in support of his prefiled testimony. (WIEC Exhibit 202.) He commented on RMP's credit rating review in light of the proposed ECAM. Gorman noted that credit rating agencies generally review a utility's credit standing which includes a review of the predictability of cash flows to support its financial obligations. He stated that credit rating agencies, including S&P, Moody's and Fitch, specifically recognize RMP's PCAM in Wyoming as "credit supportive" for PacifiCorp in helping to ensure recovery of power costs. Gorman stated that, as part of the review undertaken to determine the appropriate assessment of a utility's operating risk, credit rating agencies will [i] perform stress tests on baseline cash flows, [ii] consider and review regulatory mechanisms in place to recover the differential in power costs when the rates are actually in effect, and [iii] review mechanisms or options the utility has in place to manage power cost price uncertainty when rates are in effect. (Tr., Vol. III, pp. 435-436, 440-445, 449-451, 462-467.) Gorman discussed the Company's off-balance sheet debt noting that both the current PCAM and the proposed ECAM reduce PacifiCorp's off-balance sheet debt. He stated WIEC's proposed PCAM mechanism reduces RMP's off-balance sheet debt obligations by providing a mechanism that is above and beyond traditional ratemaking to ensure that the utility can largely recover its power cost obligations and meet its fixed obligations. (Tr., Vol. III, pp. 436-437.)

58. Gorman discussed cost of service measures that RMP and PacifiCorp have undertaken to manage net power costs price variability risk and maintain an investment grade bond rating. He stated that the Company modified its capital structure in order to manage its cost structure to reflect the risks associated with net power costs. PacifiCorp has increased its common equity portion of total capital in rate proceedings. Its capital structure has gone from about 50 percent equity to over 50 percent equity. Gorman stated that rates are generally set using a capital structure containing about a 50 percent common equity. Gorman stated that increasing the common equity ratio in the capital structure reduces financial risk to help balance total investment risk with the operating risk related to not being given full guaranteed recovery of power costs. Gorman testified:

By increasing the common equity ratio of total capital, even if you leave the security pricing components alone, which would be the objective by balancing interest, you're still raising the cost of capital. That higher cost of capital is then passed on to customers. So customers are paying a higher financial cost to offset the higher operating cost risk the utility has for assuming some purchased power cost recovery risk.

So it's a component of the overall risk assessment of the utility, and it does result in higher costs to customers.

So while the purchased power cost recovery risk does have implications on the utility, those implications are generally pushed off onto retail customers in the form of price structures that ensures that the financial and operating risk of the utility are structured in a way that it maintains investment grade credit quality. That has been accomplished here. (Tr., Vol. III, p. 438.)

Gorman stated that pricing structure to retail customers has be competitive and has to be stable in a way that allows retail customers to compete in their own marketplaces and be able to afford to pay their utility. Gorman stated this was also important to maintaining investment grade credit quality. (Tr., Vol. III, pp. 437-439, 451-453, 456.)

59. Gorman stated that, under WIEC's proposal, forecasted power costs will be used to set rates with the expectation that those forecasts are the best estimate available of what the actual power costs will be. In these circumstances, it is expected that the rates implemented will fully recover costs while giving the Company the opportunity to earn its authorized rate of return. In WIEC's plan, if power costs are much different than those forecasted, the difference between power costs built into rates for the time period and what the Company actually incurred will be apportioned between customers and shareholders. Gorman stated that, when RMP forecasts power costs, it can also lock in a lot of those commodity prices for the forecast period. The Company can then come back in a year, and lock in the commodity prices in their forecast prices for the following year using hedging instruments. He stated being able to lock in commodity exposure for the following year and being permitted to use that forecast to set rates provide a very high level of assurance of recovery of commodity costs. Under the WIEC proposal, there is risk for the utility management if the utility has the ability to lock in power costs at the base rate level and it does not execute those hedges. Gorman stated the utility would lose if power costs differ from what was forecast. (Tr., Vol. pp. 467-473.) Gorman contrasted the RMP and WIEC proposals. In his opinion, the Company's proposal would be more credit-supportive, because it provides more assurance of cost recovery. However, Gorman found no evidence that adoption of the RMP proposal "... would result in a stronger credit rating than if WIEC's proposal was adopted." (Tr., Vol. III, pp. 473-476.)

60. Randall Falkenberg, President of RFI Consulting, Inc., testified for WIEC and in support of his prefiled direct testimony. (WIEC Exhibit 203.) He disagreed with RMP's contention that anything other than cost-plus regulation would inevitably result in under-recovery, stating the system of allowing the Company to use forecasted power costs coordinated with the rate-effective period would largely eliminate substantial deviations in under- and over-recoveries. According to Falkenberg, there is nothing to suggest that cost models could not be calibrated and employed correctly to produce an unbiased forecast to power costs. In Falkenberg's opinion, the current PCAM has worked well and, because it has worked well for Wyoming, Wyoming should not look to other states for guidance on how to implement a proper mechanism. Falkenberg said other states should be looking at Wyoming. He was of the opinion that WIEC's proposed PCAM was, as noted by Gorman, reasonable as it updates the current PCAM. It has been recalibrated to reflect a change in the size of the Company's power costs on

the system and its investment base. WIEC added to the current PCAM structure features comparable to the Oregon mechanism wherein the Company can take its power cost study, coordinate it with the rate-effective period, and use a forecasted model. WIEC's proposal adds a safety net that protects both the Company and its customers in the event of unexpected deviations in power costs. (Tr., Vol. III, pp. 481-483, 512-513.) Falkenberg explained:

The mechanism would work by allowing in general rate cases the company to set the baseline and give – and the company would have the full and fair opportunity to earn the return approved by the Commission. But if deviations exist that are much larger than the normal course of business, the company could recover increasing amounts of that or the ratepayers would be refunded increasing amounts of that. (Tr., Vol. III, p. 483.)

61. Regarding interjurisdictional allocation, Falkenberg noted that RMP has filed a request for changes to the existing protocol that would eliminate some of the allocators used in the current method. Falkenberg stated WIEC would more strictly rely on the SE and SG factors as they would eliminate the need for a true-up of the embedded cost differential (ECD). Use of the Company's proposed method in the last PCAM filing would have made a difference of several million dollars had the SE factor been used. The PCAM that Falkenberg recommends would be based on the methodology that the Company has used in the last several years but would update it to reflect the allocation methodology approved by the Commission. WIEC's proposal also includes doubling the dead band and doubling the width of the sharing band. (Tr., Vol. III, pp. 483, 493-495, 497, 506-507, 513-514.) Falkenberg further recommended that, regardless of which mechanism the Commission approves, it should impose the minimum filing requirements for ECAM applications proposed by WIEC. (WIEC Exhibit No. 203, p. 33, Exhibit (RJF-2); Tr., Vol. III, pp. 498-502, 507-509.)

62. Falkenberg expressed a preference that net power costs be set in a general rate case because there is more time for review. (Tr., Vol. III, p. 509.) Falkenberg also discussed his belief RMP overstated the amount by which claims to have under-recovered from 2001 to 2009 because its figures did not include the PCAM adjustments or the PCAM settlement. He stated a large amount of the under-recovery experienced by the Company was the result of rate case settlements and some of the decisions the Company made, particularly the initial decision to settle and forego some recovery in order to get the PCAM established. He said he believed the Commission's approval of the PCAM stipulations was in the public interest. (Tr., Vol. III, pp. 515-520.)

OCA

63. Denise K. Parrish, OCA Deputy Administrator, summarized her prefiled direct testimony and cross-answer testimony (OCA Exhibits 301 & 302) and presented the OCA's recommendations and concerns about the ECAM. Parrish addressed, *inter alia*, the amount of costs that had been shared between shareholders and ratepayers over the three-and-a-half year period that the current PCAM has been in place. According to Parrish's computation, RMP shareholders have paid approximately 5 to 10 percent of those total costs. (Tr., Vol. II, pp. 355-357.) She stated that OCA's proposal differs from RMP's proposal to share 5 percent of the true-up differential in that OCA proposes to share 5-10 percent of the total net power costs,

rather than sharing the difference between forecasted and actual net power costs. (Tr., Vol. II, p. 357.) She suggested that there be no less sharing than has occurred under the current PCAM and that a target be set of about 10% of the total cost to go to shareholder and the remaining 90% to be paid by the ratepayers. While net power costs are growing, Parrish believed they are not necessarily more volatile or less controllable than in the past. (Tr., Vol. II, pp. 357-358.) Parrish also recommended that renewable energy credit (REC) and SO₂ allowance revenues be credited in their entirety to ratepayers on the grounds that the capital and operating costs giving rise to those credits are paid in customers' rates. (Tr., Vol. II, pp. 359-363, 379-382.) Parrish could accept a proposal which eliminated the dead band. She agreed that the issue would then become determining the proportions of the sharing band. She recommended that her 90/10 sharing target be structured so that forecast power costs are placed into base rates (much like current practice) and any differential between those forecast costs and the actual costs would be shared 50% to shareholders and 50% to customers. (Tr., Vol. II, Pp. 367-373, 377-379, 387.)

64. Parrish acknowledged she had not prepared an analysis of the differences between the allocation methodologies proposed by RMP and WIEC. She stated she still foresees a pitfall if the SE allocation factor were used and were to change dramatically. She stated, after hearing RMP's and WIEC's arguments, that she preferred RMP's proposal because of its simplicity. (Tr., Vol. II, pp. 382-387.) Regarding prudence reviews, Parrish stated she believed it could be an incentive for a company to control costs. She did not oppose WIEC's suggestion for minimum filing requirements as long as the Company filed the necessary documents for review and did not stymie parties' efforts to get additional information if requested. Parrish did not agree with WIEC's proposal to exclude the ECD calculation from the true-up, explaining that, unless there is to be a completely different methodology like that proposed by the Company, the ECD is an integral part of the method. (Tr., Vol. I, pp. 388-389, 401.)

65. Parrish stated that both the WIEC and OCA proposals put a portion of the cost recovery at risk through either the sharing and dead band or sharing proposals, respectively. Parrish stated both proposals provide RMP with the opportunity to fully recover its net power costs through allowing forecast base net power costs to be incorporated into base rates coupled with the ECAM mechanism that is proposed. (Tr., Vol. III, pp. 426-427.) To her, the salient differences between the OCA and WIEC proposals was that WIEC proposed safety net provisions, dead bands, and incentives such as the true-up provision. OCA's proposal focuses on the incentive and cost recovery provisions and does not include a dead band. Parrish stated OCA's incentive provision is the same as described by WIEC witness Higgins relative to encouraging the Company to do the best possible cost containment while at the same time having established base net power costs in a general rate case based on the best numbers available without any sort of discounting. In the table at page 10 of her pre-filed cross-answer testimony, she provided a comparison of each party's proposal and the resulting impacts of the proposals at different levels of variance in actual costs from a base of \$1 billion. Her table included total company numbers while WIEC witness Falkenberg used state-specific numbers in his testimony. Parrish explained that, based on the OCA's proposal, if there is a \$100 million (10%) change from base net power costs of \$1 billion, shareholders would be responsible for \$50 million and ratepayers would pay \$50 million of the variance. In total, ratepayers would pay \$1,050,000,000 and shareholders would be responsible for \$50 million. Under the WIEC proposal, because of the proposed dead and sharing bands, ratepayers would pay \$1,014,000,000, and under RMP's

proposal, ratepayers would pay \$1,095,000,000. Under the 10% change example Parrish discussed, the OCA proposal would require shareholders to pay 5% and the WIEC proposal would have shareholders pay 8%. Parrish noted these results would change as the variance of actual net power costs from the base increases and the dead and sharing bands assign different levels of cost responsibility to shareholders and ratepayers. (OCA Exhibit 302, p. 10; Tr., Vol. II, pp. 427-433.)

Legal Standards Applicable In This Case

66. W.S. § 37-2-121 provides the standard which rates must meet and allows utilities to propose innovative rate making procedures for Commission consideration:

If upon hearing and investigation, any rate shall be found by the commission to be inadequate or unremunerative, or to be unjust, or unreasonable, or unjustly discriminatory, or unduly preferential or otherwise in any respect in violation of any provision of this act, the commission, within the time periods provided under W.S. 37-3-106(c) may fix and order substituted therefor a rate as it shall determine to be just and reasonable, and in compliance with the provisions of this act. The rate so ascertained, determined and fixed by the commission shall be charged, enforced, collected and observed by the public utility for the period of time fixed by the commission. The rates may contain provisions for incentives for improvement of the public utility's performance or efficiency, lowering of operating costs, control of expenses or improvement and upgrading or modernization of its services or facilities. Any public utility may apply to the commission for its consent to use innovative, incentive or nontraditional rate making methods. In conducting any investigation and holding any hearing in response thereto, the commission may consider and approve proposals which include any rate, service regulation, rate setting concept, economic development rate, service concept, nondiscriminatory revenue sharing or profit-sharing form of regulation and policy, including policies for the encouragement of the development of public utility infrastructure, services, facilities or plant within the state, which can be shown by substantial evidence to support and be consistent with the public interest.

We note that applications considered under this statute must meet the substantial evidence standard rather than the higher and more commonly used preponderance of the evidence standard which applies to other Public Service Commission decisions.

67. Under W.S. § 37-2-112, the Commission has "... general and exclusive power to regulate and supervise every public utility within the state in accordance with the provisions of this act." It has broad powers of inquiry into utilities and their business. *See, e.g.*, W.S. §§ 37-2-116, 37-2-117, and W.S. § 37-2-119.

68. The Wyoming Supreme Court discussed the role of the public interest in Commission decisions in *PacifiCorp v. Public Service Commission of Wyoming*, 2004 WY 164, ¶13, 103 P.3d 862 (2004), the Court quoted with favor *Sinclair Oil Corp. v. Wyoming Public Service Comm'n*, 2003 WY 22, ¶9, 63 P.3d 887, ¶9 (Wyo. 2003):

Speaking specifically of PSC, we have said that PSC is required to give paramount consideration to the public interest in exercising its statutory powers to regulate and supervise public utilities. The desires of the utility are secondary. *Tri County Telephone Ass'n, Inc. v. Public Serv. Comm'n*, 11 P.3d 938, 941 (Wyo. 2000) (citing *Mountain Fuel Supply Co. v. Public Serv. Comm'n*, 662 P.2d 878, 883 (Wyo. 1983)). Additionally, in recognition of the limited nature of our review, we have explained that the judicial function is exhausted when we can find from the evidence a rational view for the conclusions of the PSC. *Tri County Telephone Ass'n*, at 941 (citing *Telstar Communications, Inc. v. Rule Radiophone Serv., Inc.*, 621 P.2d 241, 246 (Wyo. 1980)).

Construing W. S. § 37-3-101, which requires rates to be reasonable, the Court in *Mountain Fuel Supply*, 662 P.2d at 883, commented that:

This court cannot usurp the legislative functions delegated to the PSC in setting appropriate rates, but will defer to the agency discretion so long as the results are fair, reasonable, uniform and not unduly discriminatory.

Later, 662 P.2d at 885, the Court in *Mountain Fuel* stated that:

We agree that if the end result complies with the 'just and reasonable' standard announced in the statute, the methodology used by the PSC is not a concern of this court, but is a matter encompassed within the prerogatives of the PSC.

In accord are *Great Western Sugar Co. v. Wyo. Public Service Comm'n and MDU*, 624 P.2d 1184 (Wyo. 1981); and *Union Tel Co. v. Public Service Comm'n*, 821 P.2d 550 (Wyo. 1991), wherein the Supreme Court stated, 821 P.2d at 563, that it "... has recognized that discretion is vested in the PSC in establishing rate-making methodology so long as the result reached is reasonable."

69. W.S. § 37-2-120 requires the Commission to afford due process in its cases, stating that:

No order, however, shall be made by the commission which requires the change of any rate or service, facility or service regulation except as otherwise specifically provided, unless or until all parties are afforded an opportunity for a hearing in accordance with the Wyoming Administrative Procedure Act.

70. The Wyoming Administrative Procedure Act, at W.S. § 16-3-107, sets parameters for due process in Commission cases, including the giving of reasonable notice. In accord are W.S. §§ 37-2-201, 37-2-202, and 37-3-106. *See also*, Sections 106 and 115 of the Commission's Rules.

Additional Findings of Fact

71. Many of the specific facts necessary to the decision reached in this case have been stated above and will not be restated here.

72. To replace the current PCAM, RMP has proposed the ECAM under W.S. § 37-2-121 as a form of nontraditional ratemaking. The predecessor PCAM was authorized by the Commission as a form of nontraditional ratemaking in 2006. The ECAM application raises the issue as to how far the Commission may go to modify an applicant's proposal; and RMP has shown openness to modifications to the ECAM as discussed below in our conclusions of law. This demonstrates the Commission has some flexibility to find reasonable solutions, *inter alia*, in the form of a sharing band which yields a more favorable result than the current PCAM.

73. With the ECAM, RMP seeks recovery of its net power costs, arguing that they are volatile and very difficult to predict accurately. The Company has asserted that there has consistently been a shortfall in forecasted costs in the range of 3% to 8% annually. WIEC, on the other hand, contends the Company is overstating this volatility. Presently, RMP is insulated to a degree from the volatility of net power costs because it is allowed to forecast and collect power costs in a forward-looking rate effective period. (Tr. Vol. III, p. 481.) The Company, however, argues that setting rates on a forecasted basis is not sufficient because certain categories of net power costs are so volatile they cannot be accurately forecasted by the Company's GRID model. The issue, as far as the Company is concerned, is the discrepancy between forecasted costs and costs actually incurred. The Commission previously addressed this discrepancy with the PCAM, which was conceived as a mechanism for sharing the risk of cost increases rather than as a mechanism for passing through to net power costs to customers. RMP now seeks to pass through net power costs and argues that the current PCAM functions to disallow some prudently incurred costs. It finds fault with two aspects of the PCAM. The first problem is a dead band, a range of costs for which no recovery of the difference between actual and forecasted costs is allowed. The second problem is with the sharing bands, or a range of costs in which the cost differential is shared between the Company and its customers.

74. RMP has proposed an ECAM which will dispense with the dead band and reduce the sharing bands to a single 95%/5% sharing band. The Company has not offered support for the derivation of these percentages, clearly offering it only as an accommodation, and arguing that ideally it should recover 100% of its prudently incurred costs from ratepayers. Parrish noted that the Commission has "... questioned whether those rules should apply to the self-generation portion of fuel and purchased power costs, and, in fact, in the past, the Commission has never applied those rules to a company's costs relative to fuel of self-generation. At least that's been the historical interpretation of those rules." (Tr. Vol. I, p. 362.) The Commission finds no reason to change this policy. Nevertheless, the Commission agrees that the dead band should be eliminated. The dead band concept shares risk, but it also results in an absolute denial of recovery for a portion of RMP's power costs, some of which may be wholly or partially outside of the Company's control. The Commission recognizes that, with the ECAM, it is moving beyond the risk sharing rationale of the PCAM toward -- but not to -- a pass-on structure. Therefore, the main issue in this case is the proportions of the sharing band.

75. In proposing a 95% sharing band, the Company would have the Commission rely heavily on an after-the-fact prudence review to insure the costs recovered were prudently incurred. The Commission disagrees that a prudence review should be the exclusive principle

whereby the Company's power cost decisions are considered. We agree with the testimony of Higgins that a simple prudence review is not a very strong incentive:

[I]f you think about it . . . in terms of the grades you would get in school, if you have perhaps a D grade on what you're doing, you would still be able to pass a prudence review, whereas I think we want to incentivize utilities to aspire to be A students. And so I don't think there is a very great incentive to be an A student due to the threat of a prudence review. (Tr. Vol. I pp. 333-334.)

WIEC argued for something closer to best efforts. For RMP, Bird conceded that, without the Company's best efforts, net power costs would be higher. (Tr. Vol. III, p. 573).

76. In determining the sharing band in this case, the Commission notes the policies of our sister states. RMP serves six states, not all of which have adopted an ECAM or PCAM. During the testimony regarding the effect of the PCAM on the Company's credit reports it was noted that Wyoming's PCAM (even though it didn't recover 100% of RMP's costs) had a positive influence on the Company's credit ratings when contrasted to the lack of similar mechanisms in Utah, Washington and Idaho. (Tr. Vol. II, p. 182.)

77. Idaho has adopted an ECAM with a 90/10 sharing band and did so in the context of an historical test year. (RMP Exh. 9.) The Idaho ECAM also includes a \$17.48 credit for customers. However, none of the parties compared the results of Idaho's ECAM with the one proposed in this case. (Tr. Vol. II pp. 320, 348.)

78. The Commission must also consider the high proportion of industrial load in RMP's Wyoming service territory. A disproportionately strict ECAM may impose a commercial disadvantage on Wyoming industry when compared to other jurisdictions which have weaker versions of the ECAM or none at all. The Company's expert, McDermott, conceded that commercial disadvantage is a proper consideration in this proceeding.

79. The Commission finds and concludes that the ECAM should be structured to provide incentives to the Company for four purposes: [i] to use the existing forecasting mechanisms; [ii] to encourage the accuracy of modeling supporting the forecasts; [iii] to avoid creating commercial disadvantage to roughly 70% of RMP's load in Wyoming, which would ultimately be detrimental to all Wyoming customers; and [iv] to encourage the Company to use its best efforts to control costs.

80. Commission Exhibit B compares the practical effect of the current PCAM with OCA's proposed 50/50 sharing band, WIEC's proposed mix of dead and sharing bands, and the Company's proposed 95/5 sharing band. (Commission Exhibit B.) Starting with base net power costs of \$1 billion, it shows the effect of each method at various levels of net power costs, using intervals of \$100 million above and below the base, i.e., variations at 10% intervals. For the Commission's purposes, the first 10% interval is the most important, in view of Duvall's testimony that the Company has been exceeding forecasts by 3% to 8%. Exhibit B shows the effect of the four alternatives both in the customer share of dollars and as a percentage of the net power costs. For example, when net power costs exceed the base by \$100 million, the current

PCAM requires customers to bear an additional \$42 million, or about 95% of total net power costs. The Company's proposal would require customers to bear an additional \$95 million, and to bear about 99.5% of total net power costs.

81. This is a useful way to think about structuring the ECAM, because it starts with the thought that the Company can recover all base net power costs if it has prepared an accurate forecast. This encourages the Company to use existing forecasting mechanisms. Further, as long as a fixed proportion is used as a sharing band, the customer share of actual net power costs decreases as the gap between base and actual net power costs widens. So, if the discrepancy between base and actual power costs were \$500 million (50%), the customer share of actual net power costs under the Company's proposal would be 98%, rather than 99.5% as in the case of a \$100 million variation.

82. To the extent the Company can minimize the difference between forecasted base net power costs and actual net power costs, it avoids the effect of sharing bands entirely, and minimizes its own share of the difference between base and actual net power costs. This encourages the Company to prepare accurate forecasts and functions as an incentive to the Company to control costs.

83. For the foregoing reasons, the Commission finds that the reasonable sharing band is one that obligates customers to pay 70% of the difference between actual and base net power costs. This would require customers to pay \$70 million of the first \$100 million over the base, and 97.3% of total net power costs, if actual costs run 10% over base costs. This result is approximately halfway between the existing PCAM and RMP's initial proposal. The 70/30 proportion is the same one suggested by Higgins. (Trans. Vol. II, p. 347.)

84. Although the Commission prefers consistent treatment of net power costs in RMP's service territory, we have already noted that comparisons between and among states may be difficult, and consistency itself may prove elusive. *See supra*, paragraph 77. We accordingly do not expect lengthy treatment of this issue in RMP's annual filings.

85. Instead, the Commission concludes that the ECAM should sunset following Commission action on the fifth annual filing.¹ Should the Company wish to continue with the ECAM or a similar net power cost adjustment mechanism, we expect the Company to address the issue of consistent treatment of net power costs between and among the states.

86. Subjecting the ECAM to a sunset provision would also ensure a fresh look at the problems the Commission has been asked to address in this proceeding, and at subsequent

¹ Commissioner Lewis, otherwise in full agreement with this decision, respectfully disagrees with the imposition of a sunset provision. In her opinion, annual ECAM proceedings would subject the mechanism to thorough review and such modification as changing circumstances and the public interest require, while avoiding the possibility that RMP will, after five years, find it necessary to initiate a complex, costly proceeding to extend or replace the ECAM for no reason but the arrival of the sunset date.

circumstances which may warrant changed policies. Such circumstances may include, *inter alia*, significant modifications to the Company's present plans for investment in transmission; significant modifications to the Multi-State Protocol; federal intervention in the allocation of costs for transmission projects; and intolerable cumulative effects of rate increases.

87. RMP proposes a simpler method for calculating the difference between base and actual net power costs. (RMP Exh. 11; Tr. Vol. 1, p. 66). WIEC testified that this new method would have resulted in a difference of several million dollars had it been used in the last PCAM filing. As important, the Commission finds that RMP did not create a record sufficient to show there would be little divergence between the "simpler" method and the pending Multi-State Protocol revision. The Commission finds the only supportable method of interjurisdictional cost allocation is the one which results from Multi-State Protocol, currently before the Commission for revision in Docket No. 20000-381-EA-10. The Commission notes that RMP represented it would not object to this decision. (Tr. Vol. I, p. 690.)

88. RMP proposed to establish base net power costs in an ECAM. The Commission has an interest in implementing a consistent policy regarding the architecture of forecasted rates and in consistent and accurate information. Allowing the Company to establish NPC outside of the context of a general rate case through a separate and complex application in an ECAM docket would frustrate this interest. Instead the Commission will direct the Company to establish base net power costs in general rate cases where all of the relevant factors can be thoroughly and accurately examined.

89. In its 2007 PCAM application, the Company's proposed actual net power costs were slightly less than \$400 million; by 2010, the comparable figure exceeded \$1 billion. This increase has been accompanied by similarly substantial investments in infrastructure. During such times, it becomes more difficult to discern patterns that could be described as normal. It is nonetheless worthwhile to attempt to do so. So, if forecasting remains valuable, modeling remains valuable as well; and, in this complex area, consistency is independently valuable. We believe we should encourage the use of data sets that are consistent from year to year where possible. In this regard, Duvall indicated that the net power cost components have not changed over time. (Tr., Vol. I, p. 118.) Because of this, we reject WIEC's suggestion that wheeling revenues be included in net power costs for the sake of matching costs with revenues. (Tr., Vol. III, p. 501.) We find it is wiser to leave the treatment of wheeling revenues and expenses as they are.

90. The Commission notes the Company did not intend to forecast RECs or SO₂ credits as components of base net power costs. (See Exhibit GND-2, Note 1.) One result of this method of including these credits in the ECAM is that the Company will have full use of any cash generated from these credits until the interim ECAM rates go into effect, a result which arguably differs in spirit from the type of commodity balancing account which appears in the Commission's Rule 250. The Commission expressly approves this result, with the thought that the Company may find some incentive in the arrangement, though not as lucrative an incentive as the Company would wish. (Tr. Vol. III, pp. 608-609.)

91. The Commission concurs with the OCA's argument that 100% of the value of RECs and SO₂ credits should be allocated to customers because the capital and operating costs

giving rise to these credits are included in customers' rates. Therefore, to ensure proper credit for these credits, the Commission will direct the Company to ignore RECs and SO₂ credits in its initial calculation of the customer share of the actual net power costs, using the 70/30 sharing band. Once the customer share is determined for actual net power costs exclusive of the credits, a separate calculation will be made in order to allocate the full Wyoming share of the credits to customers.

92. In addition to the rationale articulated by OCA's Parrish, the Commission believes that full allocation of the credits is a reasonable component of a package which eliminates dead bands, and which in total may be more supportive of the Company than the arrangements provided by sister states. It may help to ease burden on customers from the Company's plans for recurring rate increases, even though the legal structure underlying the renewable energy credits may be subject to modifications which sharply decrease or even eliminate their value.

93. The Commission will require sixteen items of supporting information with each annual ECAM application. The list of these filing requirements is attached hereto and incorporated herein as Attachment A. The Company may include any additional information, but it must incorporate and fully explain the items on the list. The list of minimum filing requirements is not intended to limit discovery in an ECAM proceeding. It is intended to expedite initial discovery.

94. The Commission accepts WIEC's suggestion that the Company provide, with the ECAM application, a true-up of authorized revenues and recoveries. The Company acknowledged this request was reasonable, and in so doing, again acquiesced in a variance from its original ECAM concept. (Tr. Vol. I, p. 100.)

95. The Company supported its proposal that the ECAM rates become effective on an interim basis two months after filing. This means, however, that there will be no other limits on the review period beyond those provided by statute and the Commission's Rules. Even if ECAM applications do not establish base net power costs, they will be sufficiently complex that this approach to review is necessary.

Conclusions of Law

96. RMP is duly authorized by the Commission to provide retail electric service as a public utility in its Wyoming service territories under certificates of public convenience and necessity issued and amended by the Commission. It is an electric public utility as defined in W.S. § 37-1-101(a)(vi)(C). The Commission therefore has the general and exclusive jurisdiction to regulate RMP as a public utility in Wyoming under W.S. § 37-2-112

97. Proper public notice of these proceedings was given in accordance with the Wyoming Administrative Procedure Act, W.S. § 37-2-203 and the Commission's Rules, especially Section 106 thereof. The public hearing was held and conducted pursuant to the provisions of W.S. §§ 16-3-107, 16-3-108, 37-2-203, and applicable sections of the

Commission's Rules. WIEC's intervention was properly granted. It and the OCA became parties to the case for all purposes.

98. The proposed ECAM constitutes a form of nontraditional ratemaking allowed to be considered by the Commission under W.S. § 37-2-121. The original PCAM was authorized as a nontraditional ratemaking tool in our March 24, 2006, *Order* in Docket No. 20000-230-ER-05. The statutory formula of W.S. § 37-2-121 states that:

[a]ny public utility may apply to the commission for its consent to use innovative, incentive or nontraditional rate making methods. In conducting any investigation and holding any hearing in response thereto, the commission may consider and approve proposals . . . which can be shown by substantial evidence to support and be consistent with the public interest. [Emphasis added.]

Thus, the statute offers a modicum of protection for a utility from being forced into undesired "innovation" by the Commission or others. It also opens the door to conscientious innovation by allowing proposals to be judged by the substantial evidence standard. The instant application raises the issue of how far the Commission may go to modify RMP's proposal in its role of considering and approving. In this case, we are guided by two considerations:

a. First, RMP has demonstrated that it is willing to accept less than a full 100% recovery of its incurred net power costs by proposing a 95/5 sharing band. The Company has shown flexibility on other details of its proposal, such as the approach to interjurisdictional allocations. (Tr. Vol. I, p. 69.) Elsewhere, RMP has agreed that it would be open to other modifications of the proposed ECAM. This demonstrates the Commission has some flexibility to find a reasonable solution in the form of a sharing band which yields a more favorable result than the current PCAM.

b. Second, while the Commission may reject the Company's proposal outright, that would leave the Company in a worse position than it is in under the PCAM. This is particularly true given the fact the PCAM has expired, leaving only its last iteration to run its course as discussed hereinabove. The ECAM application may thus be viewed as seeking a modification of the existing PCAM, and allowing considerable latitude to modify the proposed adjustment mechanism. For these reasons the proposal before the Commission in this case is in a sense incremental, although we are mindful that we ought not to *replace* RMP's ECAM with one entirely of our own making.

99. The substantial evidence of record, as discussed herein, supports the Commission's conclusion that the Company's proposed ECAM should be approved as modified by this *Order*. The result serves the public interest and should be approved pursuant to the Commission's authority under W.S. § 37-2-121 to authorize the use of nontraditional rate making methods.

100. Based upon its review of the application and the testimony offered in support thereof, the Commission concludes the ECAM provisions, and terms and conditions as contained in the application and modified herein, represent a just and reasonable resolution of all

outstanding issues before the Commission in these proceedings. Our decision serves the public interest.

101. The Commission concludes that the resultant ECAM will allow RMP to continue to provide adequate, safe, and reliable service and will result in just and reasonable rates.

IT IS THEREFORE ORDERED:

1. Pursuant to the Commission's deliberations held on January 5, 2011, the application of Rocky Mountain Power for authority to implement an Energy Cost Adjustment Mechanism is approved as modified herein.

2. The revised tariffs discussed hereinabove, not already approved by the Commission, shall be filed with the Commission for approval, consistent with the terms of this *Order*, within two weeks of its issuance.

3. The parties shall promptly hereafter deal with all confidential information in their possession in accordance with and at the time specified in ¶6(e) of the Commission's *Protective Order*, issued in this docket on April 16, 2010.

4. This *Order* is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming, on February 4, 2011.

PUBLIC SERVICE COMMISSION OF WYOMING

ALAN B. MINIER, Chairman

STEVE OXLEY, Deputy Chairman

(SEAL)

KATHLEEN A. LEWIS, Commissioner

Attest:

STEVE MINK, Assistant Secretary

ATTACHMENT A
ECAM Minimum Filing Requirements

1. All Short-Term Firm Transactions.
2. Actual market prices for the period for all energy trading markets in which PacifiCorp participated.
3. Actual natural gas market prices and any natural gas contract executed.
4. New or Modified contracts for Long-Term Firm power purchases or sales.
5. Summary of terms and prices for any new or modified coal contract.
6. To the extent included in ECAM, all monthly California ISO service charges and fees.
7. Support for the interest rate calculation used in the ECAM filing.
8. Actual monthly wheeling expenses and revenues.
9. A summary of all settlements, liquidated damages, fines or penalties included in the ECAM calculations.
10. Provide a summary of RECs including when each is generated, reserved and sold for all of PacifiCorp, categorized by state, with the prices therefor.
11. The identity of all wholesale sales contracts where RECs were bundled with energy, including supporting documentation for the revenue split between the energy and REC.
12. A summary of all SO₂ contracts.
13. Coal and wind generating plant operations data including availability, capacity factor, Equivalent Forced Outage Rate (EFOR), and hourly generation.
14. A report reconciling recovered ECAM revenues compared to the per rate class revenues authorized by the Commission in the prior period ECAM and the per rate class revenues actually collected, including authorized and actual revenues per class and illustrating the differences between the forecasted and actual billing units.
15. The estimated wind integration costs in the current ECAM and supporting documentation for the calculations.
16. A report of daily transactions supporting the system capacity and energy balance for Pacific Power and RMP for the ECAM period.